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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Implementation of the )  
Cable Television Consumer )  
Protection and Competition )  
Act of 1992 )

Rate Regulation )

MM Docket 92-266

**COMMENTS OF THE COMMUNITY ANTENNA TELEVISION**  
**ASSOCIATION, INC.**

Community Antenna Television  
Association, Inc.  
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COMMENTS OF THE COMMUNITY ANTENNA TELEVISION  
ASSOCIATION, INC.

1. The Community Antenna Television Association, Inc., ("CATA"), hereby files comments in the above-captioned proceeding. CATA is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these comments on behalf of its members who will be directly affected by the Commission's action.

INTRODUCTION

2. The Commission has requested comment on the extent to which any relief from its rate regulations that it "ultimately may provide" to smaller cable systems should apply to all small systems or only small systems not affiliated with or controlled by multiple system operators (MSOs). CATA believes that any distinction between independently owned systems and systems owned by MSOs is not significant for the purpose of forming any policy granting regulatory relief. Moreover, the Commission should make

every effort to simplify an already overly complicated body of regulation by declining to adopt new policies that unnecessarily and laboriously distinguish cable systems based on inherently arbitrary company-wide subscriber limits. CATA also maintains that for purposes of granting small system relief, the Commission should logically define a system according to its franchise area, not by headend.

#### RELIEF SHOULD BE GRANTED TO ALL SMALL SYSTEMS

3. The Commission's decision to grant regulatory relief to small cable systems should not turn on whether a system is one of some number of systems owned by an MSO. As the Commission, itself, has noted, the Cable Act of 1992, in calling for administrative relief for small systems, does not make any such distinction. Moreover, in all practical respects it is not significant that some small systems are independently owned, while others are owned by MSOs. Small systems share common characteristics. Their costs are in almost all respects the same. These costs are spread over a small subscriber base. In many cases the population density of communities served by small systems is very low, making construction, re-building and service more costly. Many small systems serve rural or poorer areas and are not able to profit from providing additional or unregulated services. Advertising revenues are almost non-existent. All these factors argue in favor of significantly different treatment

for small systems, regardless of ownership.

4. The Commission has suggested that small systems, affiliated with MSOs enjoy certain economies, particularly with respect to costs for whatever channels of programs they carry that are obtained from parent companies. There may be some cost savings for these systems, but this factor is not sufficient to outweigh the burdens shared by all small systems. Indeed, to dwell on individual advantages enjoyed by some systems is to lose sight of the more general problem. For instance, some small systems, whether owned by MSOs or not, are subject to significantly lower franchise fees than other systems. Some small systems have such a small revenue base that they must be partially financed from revenues obtained from their owners' other businesses. But merely because some cost element for some small systems may be somewhat lower than for others, is no reason to distinguish systems for purposes of regulation. Overall, smaller systems share significant disadvantages and should be granted regulatory relief.

#### KEEP THE RULES SIMPLE

5. Making a largely artificial distinction between affiliated and unaffiliated systems creates an unnecessarily complicated system of regulation. The logic of making a distinction based on common ownership inevitably leads to the

complication of having to determine what degree of common ownership is acceptable or not acceptable. The Commission is led to consider the issue of defining an MSO for purposes of creating some subscriber "cap." Merely to raise the issue forces the Commission to consider "...whether the absence of such a subscriber cap could create incentives for the disaggregation of systems to place some systems within the cap." And with further inexorable, regulatory logic, the Commission feels it must therefore consider whether, if disaggregation occurs, it should consider such restructuring an evasion under Section 623(h) of the Cable Act. The Commission must resist such an excursion into regulatory overkill.

6. Regardless of how the Commission defines a cable system for the purposes of granting relief (and as CATA argues below, the definition of small system should be based on its franchise, not headend, subscribership) it is clear that although the numbers of systems with 1000 or fewer subscribers is large, the percentage of subscribers served by these systems compared to the number of subscribers nationwide is very small. Thus, the effect of granting relief to all smaller systems will pose very little threat of adverse impact to a large subscriber base, but will be of very great benefit to thousands of small businesses. Under these circumstances, the Commission can easily avoid having to make complicated and inherently arbitrary distinctions and can instead focus its attention on adopting an easily understood,

simple relief package for all small systems.

#### SMALL SYSTEMS SHOULD BE DEFINED BY FRANCHISE AREA

7. For purposes of granting rate regulation relief to small systems, the Commission should define systems by franchise community, not headend. Each local government is given authority to regulate basic tier rates, even if its system, along with others, is served by a common headend. Administrative burdens of regulation fall on each franchised system and on each franchising authority as well. For purposes of obtaining certification, reviewing rates, holding hearings, filling out worksheets, determining cost-of-service, each community is treated separately. Often the only economical way that some communities can ever be served by cable is when the systems share a headend. But the economics of construction costs, problems with population density and small subscriber base remain the same. The burdens of regulation remain disproportionate to the system's size and revenue base whether or not the system shares a headend.

#### CONCLUSION

8. CATA urges the Commission to grant regulatory relief to small cable systems by taking the simplest, most straightforward approach. Relief should be granted to all small systems, regardless of ownership. Thus, CATA does not reach the question

of devising some inherently arbitrary subscriber cap to distinguish systems owned by MSOs. The differences between independently owned systems and systems owned by MSOs do not warrant disparate treatment. Further, CATA believes that the Commission should grant relief to systems according to the franchise communities they serve, regardless of whether they share a common headend with a system in another community. Finally, CATA urges that if the Commission determines to grant regulatory relief to small systems, as it should, and as the record compels it to do, it should seek the simplest approach possible. It should not lose sight of the reason for granting the relief - smaller cable systems, regardless of who owns them and regardless of whether they may share a headend, may not be able to survive under the burden of rate regulation. These systems provide a valuable communications service in small towns and rural areas all over the country. The Commission should insure their survival.

Respectfully submitted,

THE COMMUNITY ANTENNA TELEVISION  
ASSOCIATION, INC.

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